

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TANIELLE SHURNEY,

Plaintiff,

Vs.

No. CA 05-196 Erie
CIVIL ACTION
ELECTRONICALLY FILED PLEADING

**SCOTT'S ECONO INN, INC.
SCOTT'S SPLASH LAGOON, INC.**

**SEAN PIERCE, INDIVIDUALLY AND
IN
HIS CAPACITY AS A TROOPER OF
THE PENNSYLVANIA STATE POLICE**

**JOHN DOE, INDIVIDUALLY AND IN
HIS CAPACITY AS THE SUPERVISOR
OF TROOPER SEAN PIERCE OF THE
PENNSYLVANIA STATE POLICE**

Defendants

**DEFENDANTS SCOTT'S SPLASH
LAGOON, INC. AND SCOTT'S ECONO
INN, INC.'S JOINT MOTION FOR
SUMMARY JUDGMENT**

Filed on behalf of Scott's Splash Lagoon,
Inc. and Scott's Econo Inn, Inc.

Counsel of Record for these parties:

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JURY TRIAL DEMANDED

**DEFENDANTS SCOTT'S SPLASH LAGOON, INC. AND
SCOTT'S ECONO INN, INC.'S MOTION FOR SUMMARY JUDGMENT**

NOW COME the Defendants, Scott's Splash Lagoon, Inc. and Scott's Econo Inn., Inc., by and through their attorneys, and move for summary judgment pursuant to F.R.C.P. 56(b) and in support thereof state the following:

1. This lawsuit arises from the fraudulent use of a debit card to purchase an amusement park and hotel reservation at Splash Lagoon Resort and Econolodge on Peach Street in Erie, Pennsylvania. On July 3, 2004, Plaintiff Tanielle Shurney was arrested by Pennsylvania State Police Trooper Sean Pierce after registering at the Econolodge for a room under a reservation made in her name and purchased with a stolen debit card number.
2. Plaintiff brought this action pursuant to 42 U.S.C. §1983, and attempts to state false arrest or false imprisonment claims.
3. The victim of the theft of the debit card number is Tonya Traylor. Ms Traylor was deposed in Streetsboro, Ohio, on January 11, 2006. Ms. Traylor testified that she discovered that someone used her debit card number without her authorization for a number of purchases; that as a result of this unauthorized use her bank account was debited \$198.79 for reservations to Splash Lagoon; and that Ms. Traylor reported these theft incidents to Officer Jon M. Hurley of the Streetsboro, Ohio Police Department. Plaintiff admits these facts.
4. Officer Hurley, the lead investigator for the criminal complaint filed by Tonya Traylor, testified that he contacted the Splash Lagoon reservation center. Officer Hurley instructed employees at the Splash Lagoon reservation center or Econolodge to contact the Pennsylvania State Police when the reservation was claimed. Plaintiff admits these facts.

5. Tanielle Shurney registered at the Econolodge to claim the fraudulently purchased accommodations on July 3, 2004. An Econolodge employee notified the state police pursuant to Officer Hurley's directions, and Plaintiff was arrested.

6. Pennsylvania State Police Trooper Sean Pierce arrested the Plaintiff without a warrant on July 3, 2004. Plaintiff was arraigned that day before a district magistrate, bail was set, and she was remanded to the Erie County Prison. Trooper Pierce testified that the Plaintiff's arrest was done at the instructions of his supervisor, and that neither Scott's Splash Lagoon or Scott's Econolodge requested or directed him to arrest the Plaintiff.

7. The Plaintiff was arrested pursuant to Pennsylvania statutory authority, and was arraigned in accord with the Pennsylvania Rules of Criminal Procedure. 18 Pa.C.S.A. §3904, Pa.R.Crim.P. 519. The magistrate made the determination that probable cause existed for her arrest and remanded the Plaintiff to the Erie County Prison. Pa.R.Crim.P. 540. The criminal information was prepared and signed by Trooper Pierce. Trooper Pierce testified that he had reasonable belief that Plaintiff was responsible for the criminal use of another's credit/debit card.

8. Plaintiff fails to state a false arrest/malicious prosecution claim, because the Plaintiff's arrest was made with probable cause. There is no evidence that Scott's Econo Inn, Inc. or Scott's Splash Lagoon, Inc. initiated or instigated the investigation, arrest, incarceration or prosecution or otherwise acted maliciously or for purposes other than bringing the Plaintiff to justice. Therefore, Plaintiff's claim fails in its entirety.

9. Under the aforementioned facts, these Defendants are entitled to summary judgment.

There is no genuine issue as to any material fact and Scott's Splash Lagoon, Inc. and Scott's Econo Inn, Inc. are entitled to summary judgment as a matter of law.

10. These Defendants hereby incorporate by reference as if set full all of their Brief and Record in Support of Motion for Summary Judgment filed concurrently herewith.

WHEREFORE, Defendants Scott's Splash Lagoon, Inc. and Scott's Econo Inn, Inc. hereby demand judgment in their favor and against the Plaintiff with costs, attorneys' fees, and such other relief that this Court deems appropriate.

Respectfully submitted,

MURPHY TAYLOR, L.L.C.

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CERTI

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JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Defendants Scott's Splash Lagoon, Inc. and Scott's Econo Inn, Inc.'s Joint Motion for Summary Judgment was electronically served upon all counsel of record, this the 28th day of March, 2006:

Respectfully submitted,

MURPHY TAYLOR, L.L.C.

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